

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

VILLAGE OF AGENCY, MISSOURI

APPELLANT,

**v.
CITY OF ST. JOSEPH, MISSOURI, ET AL.**

RESPONDENTS.

DOCKET NUMBER WD79220

DATE: October 25, 2016

Appeal From:

Buchanan County Circuit Court
The Honorable Randall R. Jackson, Judge

Appellate Judges:

Division One: Thomas H. Newton, Presiding Judge, Cynthia L. Martin, Judge and Edward R. Ardini, Jr., Judge

Attorneys:

Ronald R. Holliday, St. Joseph, MO, for appellant.

Paul A. Campo and Bryan E. Carter, Lee's Summit, MO, for respondents.

MISSOURI APPELLATE COURT OPINION SUMMARY

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CITY OF ST. JOSEPH, MISSOURI, ET AL.,

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Before Division One: Thomas H. Newton, Presiding Judge, Cynthia L. Martin, Judge and Edward R. Ardini, Jr., Judge

Village of Agency, Missouri appeals the trial court's denial of a petition which sought a declaration authorizing an involuntary annexation. Village argues that the trial court erred in requiring Village to prove by substantial evidence that the reasonableness and necessity of the annexation was fairly debatable. Village also contends that the trial court erred in refusing to consider Village's desire to regulate nearby land to prevent a noxious use.

AFFIRMED.

Division One holds: The trial court imposed the proper burden on Village when it found that Village failed to sustain its burden to proceed with evidence that could support a finding that the reasonableness and necessity of annexation was fairly debatable. Village did not present evidence supporting a finding of any factor recognized as appropriate to support annexation. Village established only that its decision to annex was based exclusively on a desire to control the use of the annexed area. A desire to control the use of an annexed area, commonly referred to as defensive annexation, is not sufficient standing alone to sustain an annexing authority's burden to proceed with evidence that the reasonableness and necessity of annexation is fairly debatable.

Opinion by Cynthia L. Martin, Judge

October 25, 2016

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